

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.

INDEX SHEET

CAUSE TITLE O. A. 155 of 1988

Name of the parties Shabboo Lal
Applicant.

Versus.

Union of Indus (N. Ry.) Respondents.

Part A.B.C.

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Sub

S.M. / Transfer

Filed on 5-10-01

CENTRAL ADMINISTRATIVE TRIBUNAL

Circuit **ADDITIONAL BENCH,**

23-A, Thornhill Road, Allahabad-211001

Uttar Pradesh

Registration No. 155 of 198 A(L)

APPLICANT (s) Dhabboo Lal

RESPONDENT(s) U.O.L. & Co

Particulars to be examined

Endorsement as to result of Examination

1. Is the appeal competent ?
2. (a) Is the application in the prescribed form ?
(b) Is the application in paper book form ?
(c) Have six complete sets of the application been filed ?
3. (a) Is the appeal in time ?
(b) If not, by how many days it is beyond time ?
(c) Has sufficient case for not making the application in time, been filed ?
4. Has the document of authorisation/Vakalat-nama been filed ?
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?

yes

yes

yes

no

(five sets)

yes

—

—

yes

yes U.P.O. No DD 020255) Rs 50/-
5
dt. 19.9.01

yes

yes

Attested by the affidavit
Commissioner in only 5 copy.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCULAR BENCH AT LUCKNOW.

O.A./T.A. No. 155 1988(L)

Zhabbar Lal

Applicant(s)

Versus

U.O. & L.O.

Respondent(s)

Sr.No.	Date	Orders
26.X.00		<p>Hon. D.S. Mishra - A.M.</p> <p>Admit.</p> <p>Issue notices / one month for C.A. & two weeks thereafter for R.A.</p> <p>There is also a prayer for interim relief. Issue notice to O.P. to file reply as to why the prayer for interim relief be not granted. List this case come on 21.11.00 for hearing on interim relief.</p> <p style="text-align: right;">sd/- A.M.</p> <p style="text-align: right;">Jish</p>
3/11/00		<p><u>OR</u></p> <p>Notices issued to the respondents No 1 to 5 through Regd. Post fixing 21.11.00 for hearing on interim relief.</p> <p style="text-align: right;">Jish 3/11/00</p>
15.11.00		<p><u>OR</u></p> <p>Notices were issued to the respondents fixing 21.11.00 for hearing on interim relief.</p> <p>Notice of Respondents No 2 & 3 have been received back with the postal remark "D.R.M. Office (W) खसमन में लॉ स्ट ऑफर किया। डी.टी. प्रपक का गपल है।" & Respondent No 2. में remark. bb D.R.M. Office C.R. खसमन में लॉ ऑनपान पिए में लॉ स्ट इ-काल फमल आ प्रपक अ गपल।"</p> <p>No reply on behalf of other respondents has been filed so far.</p> <p style="text-align: center;">submitted.</p> <p style="text-align: right;">Jish 15/11/00</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

O.A./T.A. No. 155 1980 (L)

Shabbao Lal

Applicant(s)

Versus

U.O.

Respondent(s)

Sr. No.	Date	Orders
21-11-80	No sitting. Adjourned to 21/12/80 for order.	Jish 21/11
21/12/80	No sitting. Adjourned to 25/1/81 for order. Sh. S.P. Srivastava counsel for respondents power filed today.	h 21/12
2 19/1/81	OB	<p>Notices were issued to the respondents to file reply.</p> <p>Notice of O.P. No. 2 & 3 have been received back with postal remark.</p> <p>No reply has been filed so far.</p> <p>Case is submitted for hearing on Interim prayer as ordered by Court.</p>
	OB	Reply filed on

Jish
21/1/81

Particulars to be ExaminedEndorsement as to result of Examination

- (42)
- (c) Are the documents referred to in (a) above neatly typed in double space? yes
8. Has the index of documents been filed and paging done properly? ~~yes~~ NO
9. Have the chronological details of representation made and the outcome of such representations been indicated in the application? yes
10. Is the matter raised in the application pending before any Court of law or any other Bench of Tribunal? NO
11. Are the application/duplicate copy/spare copies signed? NO. on only one copy
12. Are extra copies of the application with Annexures filed? yes
- (a) Identical with the original? —
- (b) Defective? —
- (c) Wanting in Annexures —
- Nos...../Pages Nos.....?
13. Have file size envelopes bearing full addresses, of the respondents been filed? NO
14. Are the given addresses, the registered addresses? yes
15. Do the names of the parties stated in the copies tally with those indicated in the application? yes
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true? N. A.
17. Are the facts of the case mentioned in item No. 6 of the application? yes
- (a) Concise?
- (b) Under distinct heads?
- (c) Numbered consecutively?
- (d) Typed in double space on one side of the paper?
18. Have the particulars for interim order prayed for indicated with reasons? yes
19. Whether all the remedies have been exhausted. NO

let case be listed on 24.10.88 Jalw 5/1/88

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Hon' Mr. Justice K. Nath, V.C.
Hon' Mr. D.S. Misra, A.M.

19/4/89

The amendment application has not been
filed. The case be listed for hearing
as it is on 3-7-1989.


A.M.


V.C.

(sns)

OR
Two more applica-
Numbering ~~152~~
Δ 153/89 filed by
learned counsel for
the applicant.

OR
Two C.M. An. 152/89 (C) +
Condensation of delay 4 C.M.
An No. 153/89 (C) for amend-
ent filed by the learned
counsel for the applicant
on 17.5.89.
Submitted for order

h.
30/6

Recd. Col. Nath
27/4/89
11/5/89
7.7.89

Recd. C.M.
27-7-89
for Dr. S. P. Divakar

0 / (P6)

CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow

.....

July 3, 1989

Registration O.A. No. 155/88 (L)

Jhabboo Lal Applicant

Vs.

Union of India & ors ... Respondents

Hon' Mr. Justice K. Nath, V.C.

Hon' Mr. K.J. Raman, A.M.

(By Mr. Justice Kamleshwar Nath, V.C.)

Shri Y.K. Kulshrestha, learned counsel is present and heard. The delay in filing the amendment application is condoned.

2. The case raises a short point. The applicant was a Clerk under the Assistant Engineer, Northern Railway, Hapur, when he was posted vice ~~to~~ ^{of} Shri R.B. Srivastava under Assistant Engineer, NR. Hardoi by an order dated 7-7-88 (Copy Annexure-I to the petition). The applicant on being relieved from Hapur, proceeded to join at Hardoi, but he could not join there, as Shri R.B. Srivastava continued to be posted at Hardoi. However, the transfer order was cancelled by an order dated 9-8-88 (Copy Annexed to the Opp.Ps. reply which has contained no date). The applicant has urged that it was the duty of Shri R.B. Srivastava to hand over the charge, in order to enable the applicant to join in consequence of order dated 7-7-88, and that his posting at Hardoi is also appropriate, because he belongs to Scheduled Caste. In the reply on behalf of Opp.Ps. No. 5, it is stated that SC quota at Hardoi is already over ^{but} ~~and~~ according to the learned counsel for the applicant, the quota is not over.


...2/-

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2. It is not necessary to go ^{into} details in the matter, because, we find that the applicant had made a representation dated 23-8-88 contained in Annexure-IV to the application, where he has stated, inter-alia that there was no post available for him at ^{Hapur,} ~~Hardoi,~~ if he was to go back in consequence of the cancellation of order; that he had ^{got} his children admitted into the school at Hardoi, where he had also taken a house on rent and that if it was not possible for him to be posted at Hardoi, he might as well, be posted at Balau, where a Clerk, Shri Laxmi Narain had ^{sought} for his transfer. The applicant has ^{not} received any reply to this representation.

3. In view of what has been stated above, the principal relief in the main application cannot be granted by this Tribunal, but ^{we} ~~to~~ direct the respondents to consider the applicant's representation dated 23-8-88 (Annexure-IV to the application), within a period of six weeks from the date of the receipt of a copy of this order and it is hoped that the opposite parties would consider the representation sympathetically to the possible extent. This application is disposed of accordingly. Parties shall bear their own cost. A copy of the judgment be delivered to the learned counsel for the applicant within three days.


A.M.


V.C.

(sns)

(48)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH
ALLAHABAD AT LUCKNOW

Jhabboo Lal .. Applicant
Versus
Union of India and others .. Respondents

I N D E X

S.No;	Description	Page No.	
		From	to
1.	Application		
2.	Annexure No. 1 Copy of order dated 7.7.88		
3.	Annexure No. 2 copy of letter dt. 28.7.88		
4.	Annexure no. 3 copy of order dt. 29.7.88		
5.	Annexure No. 4 Copy of application dt. 23.8.88		
6.	Annexure No. 5 Copy of order dt. 5.2.1986		
7.	Affidavit		
8.	Vakalatnama		

Place: Lucknow

Dated: Sept. 23, 1988

S. P. Singh
(S.P. Singh)

Advocate

Filed Today
and noted for
24-10-88

V. K. Jaiswal
(V. K. Jaiswal)
Advocate

संलग्न नाल

Form I
See Rule 4

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Application under Section 19 of the Administrative Tribunals
Act, 1985.

Date of filing -----
or -----
Date of receipt by post -----
Registration No. -----

Signature
Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH
ALLAHABAD, AT LUCKNOW

Jhabboo Lal .. Applicant
Versus
Union of India & others .. Respondents

1. Details of Application

(i) Name of the applicant	Jhabboo Lal
(ii) Designation and office in which employed	Clerk in the office of the Assistant Engineer, Northern Railway, Hardoi.
(iii) Office Address;	Clerk, Office of the Assistant Engineer, Northern Railway, Hardoi.

Jhabboo Lal

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- (iv) Address for service of all notices:
- (1) Office of Divisional Manager, Northern Railway, Moradabad.
 - (2) Office of Assistant Engineer, Northern Railway, HarDOI.
 - (3) Office of Divisional Superintending Engineer, Northern Railway, Moradabad.
 - (4) Office of Senior Divisional Personnel Officer, Northern Railway, Moradabad.

2. Particulars of Respondents

- (1) Union of India, through Chairman Railway Board, Rail Bhavan, New Delhi.
- (ii) Divisional Manager, Northern Railway, Moradabad.
- (iii) Divisional Superintending Engineer, Northern Railway, Moradabad.
- (iv) Senior Divisional Personnel Officer, Northern Railway, Moradabad.
- (v) Assistant Engineer, Northern Railway, HarDOI.

(15) Office address of Respondents

- (1) Union of India, through Chairman, Railway Board, Rail Bhavan, New Delhi.
- (ii) Divisional Manager, Northern Railway, Moradabad.

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- (iii) Divisional Superintending Engineer, Northern Railway, Moradabad.
- (iv) Senior Divisional Personnel Officer, Northern Railway, Moradabad.
- (v) Assistant Engineer, Northern Railway, HarDOI.

(iii) Address for service of all notices

1. Union of India, through Chairman, Railway Board, Rail Bhavan, New Delhi.
- (2) Divisional Manager, Northern Railway, Moradabad.
3. Divisional Superintending Engineer, Northern Railway, Moradabad.
4. Senior Divisional Personnel Officer, Northern Railway, Moradabad.
5. Assistant Engineer, Northern Railway, HarDOI.

3. Particulars of the order against which application is made.

The application is against the following order:-

- (1) Order No. E-15 dated 29.7.1988
- (ii) Passed by: Assistant Engineer, Northern Railway, HarDOI
- (iii) Subject in brief: Joining at HarDOI in compliance of the orders dated 7.7.1988.

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4. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the order, against which he wants redressal, is within the jurisdiction of this Tribunal.

5. Limitation

The applicant further declares that the application is within limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the case;

The facts of the case are given below:-

(i) That the applicant was working as a Clerk under Assistant Engineer, Northern Railway, Hapur.

(ii) That the applicant was transferred vide office order No. 940-E.O.-3/Transfer/86/Part II dated 7.7.1988 by the Senior Divisional Personnel Officer, Moradabad from Hapur to Hardoi. A true copy of the order dated 7.7.1988 is being filed as Annexure No. 1 to this application.

(iii) That in compliance of the order dated 7.7.1988, the applicant was relieved vide office letter No. E/3 dated 28.8.1988 by the Assistant Engineer, Northern Railway, Hapur. A true copy of the letter dated 28.7.1988 is annexed as Annexure No. 2 to this application.

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(iv) That the applicant reported for duty at Hardoi in the office of the Assistant Engineer, Northern Railway, Hardoi on 29.7.1988 when he was served with an order No. E/15 dated 29.7.1988 passed by the Assistant Engineer, Northern Railway, Hardoi to the extent that one person is working here in excess. So, he is directed to report to the Senior Divisional Personnel Officer, Moradabad. A true copy of the order dated 29.7.1988 is annexed herewith as Annexure No. 3.

(v) That the applicant moved an application before the Divisional Manager that he was relieved by the Assistant Engineer, Hapur in the afternoon of 28.7.1988 and the applicant submitted his joining report on 29.7.1988, but he was not allowed to get charge on the post. The applicant further stated in his application dated 23.8.1988 that he has got his children admitted in the school at Hardoi on 7.8.88 and also took a house on rent of Rs. 300/- per month. He had further stated that the career of his children and will be spoiled if Sri R.B. Srivastava is not spared then he should be posted at Bala Man as Sri Laxmi Narain Clerk has demanded his transfer to Lucknow. The true copy of the application dated 23.8.1988 is annexed as Annexure No. 4 to this application.

(vi) That a letter No. 1/10/79/D.T./Part 2 dated 5.2.1986 was issued regarding the transfer of scheduled caste candidates. In this letter, it was

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mentioned that in the Board's letters dated 19.11.70 and 14.1.1975 it was desired that the transfer of scheduled caste and schedule tribe employees should be confined to their native districts or adjoining districts or places where the administration can provide quarters and that these instructions should be followed to the maximum extent. The applicant is a scheduled caste employee and resident of district Hardoi. He was transferred to his native district by the Senior Divisional Personnel Officer, Moradabad and the order of transfer was in conformity with the order dated 5.2.1986 referred above. A true copy of the order dated 5.2.1986 is annexed as Annexure No. 5 to this application.

(vii) That the applicant is on leave and he will suffer irreparable loss if he is not allowed to resume his duties at Hardoi. The transfer order is duly in conformity with the Board's circular letters dated 19.11.1970, 14.1.1975 and 5.2.1986, copies of which have already been enclosed along with this application.

(viii) That the action of the Assistant Engineer, Northern Railway, Hardoi in not relieving Sri R.B. Srivastava is against the Board's circular and also against the principles of natural justice.

(ix) That the applicant has been relieved

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from Hapur and he has reported for duty at Hardoi. It was incumbent on the part of the Assistant Engineer, Hardoi to allow the applicant to resume his duties at Hardoi.

(x) That on 29.7.1988, the applicant joined his duties at Hardoi and also moved a representation before the Senior Divisional Personnel Officer, Moradabad on 23.8.1988, but no heed was paid towards his representation so far.

(xi) That there is no other efficacious and alternative remedy open to the applicant except to invoke the jurisdiction of this Hon'ble Tribunal. Hence, the present application is being filed on the following, amongst others, inter alia grounds:-

G R O U N D S

A) Because the applicant was transferred from Hapur to Hardoi and was relieved in the afternoon of 28.7.1988 at Hapur and he reported for duty at Hardoi on 29.7.1988 and as such he cannot be asked to go back, as the order has been complied by the applicant.

B) Because the applicant being a scheduled caste employee and his native district being Hardoi, his transfer is covered under the Board's circular dated 19.11.1970, 14.1.1975 and 5.2.1986 and in compliance

24/07/1988

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of the said circular the applicant is entitled to remain at Hardoi.

C) Because the order dated 29.7.1988 passed by the Assistant Engineer, Hardoi is against the principles of natural justice and is not in conformity with the Board's circular dated 5.2.1986.

D) Because the applicant in his representation dated 23.8.1988 has clearly stated that he got his children admitted at Hardoi and also took a house on a rent of Rs. 300/- per month and as such it would be difficult for him and his family to shift to another place.

E) Because the action of the Assistant Engineer Northern Railway, Hardoi is arbitrary, malafide, discriminatory, illegal and bad

7. Reliefs sought

In view of the facts mentioned in para 6 the applicant prays for the following reliefs:-

1) That the Hon'ble Tribunal be pleased to direct the Assistant Engineer, Northern Railway, Hardoi to relieve Sri R.B. Srivastava as mentioned in the order dated 7.7.1988 and give charge to the applicant.

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11) That the Hon'ble Tribunal be pleased to quash the order dated 29.7.1988, which is not in conformity with the circular dated 5.2.1986, and direct the respondents to allow the applicant to resume his duties at Hardoi, or the respondents be directed to post the applicant at a place adjoining to Hardoi in the interest of justice.

111) Any other relief deemed fit and proper may also kindly be awarded in favour of the applicant and against the respondents.

8. Interim order prayed for pending final decision on the application;

The applicant seeks the following interim relief;-

1) That during the pendency of the case, the respondents be directed to allow the applicant to resume his duty at Hardoi.

11) That any other relief, which the Hon'ble Tribunal deems fit and proper, may also be awarded to the applicant.

9. Details of remedies exhausted;

1) That the applicant declares that he has

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availed all the remedies available to him under the relevant rules.

11) That the applicant preferred a representation on 23.8.1988 against the order dated 29.7.88 and the said representation is still pending.

10. Matter not pending with any other court etc

The applicant further declares that the matter, regarding which this application has been made, is not pending before any court of law or any other Bench of the Tribunal.

11. Particulars of Bank Draft/Postal Order in respect of the application fee;

1. Name of the Bank on which drawn

2. Demand Draft No.

Or

1) No. of Indian Postal Order DD 020255

11) Name of the issuing Post Office G. P. O. Uchman

111) Post Office at which payable. G. P. O. Uchman

12. Details of Index:

An index in duplicate containing the details of the documents to be relied upon is enclosed separately.

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13. List of Enclosures

- Annexure No. 1- Copy of order dated 7.7.1988.
Annexure No. 2- Copy of letter dated 28.7.1988.
Annexure No. 3- Copy of order dated 29.7.1988.
Annexure No. 4- Copy of application dated 23.8.1988.
Annexure No. 5- Copy of order dated 5.2.1986.

VERIFICATION

I, Jhabboo Dal son of Sri Niranjan, aged about 43 years, resident of Tekha Majra Patseni, P.O. Barwa Sarsand, district Hardoi do hereby verify that the contents of paragraphs 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts to the registrar.

Place: Lucknow

Dated: Sept. 23, 1988

डा. जहाबू दाल

A P P L I C A N T

SP 8/1/88

डा. जहाबू दाल

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH LUCKNOW.

MISC. APPLICATION NO.. 152 1989 (C)

IN

ORIGINAL APPLICATION NO.. 155 OF 1988 (L).

Jhabbu Lal.

.... Applicant

Versus

Union of India & Others..

.... Respondents..

BRIEF FACTS LEADING TO THE APPLICATION.

(1) The applicant filed the above noted application challenging the validity of the order of transfer dated 29-7-88 and also prayed that he be allowed to join in the Office of the Assistant Engineer, Northern Railway, Hardoi.. The applicant also prayed for interim relief.

(2) That the respondent No. 5 filed objection of the reply to the Interim Relief Application in which they had stated that they cancelled the order dated 7-7-88, vide Order dated 9-8-88 as such the application should be dismissed. The above fact was brought to the knowledge of the applicant on 21-11-88.

*Sri Suresh Kumar
to pl. keep on record
& put up before
Hon'ble Court for
order.*
Q17

21 02 1989

(3) That due to change of the circumstances it became necessary for the applicant to challenge the order filed by the respondents alongwith the objection/reply dated 9-8-88.

RELIEF OR PRAYER.

(4) That the applicant seeks the following amendments in his original application.

(A) That in facts of the case after paragraph (x) and before paragraph (xi), the following paragraph be allowed to be added..

(xA) That the Order dated 9-8-88 passed by the respondents by which the original order of transfer dated 7-7-88 was cancelled, is illegal and bad on the grounds that the applicant has been relieved in persuance of the Order dated 7-7-88 so the order 9-8-88 cannot be passed against the applicant..

(xB) That one order of transfer dated 7-7-88 was executed and he submitted his joining report at Hardoi, clearly shows that the order of transfer has acted upon and once it is acted upon, it can by no imagination can be cancelled by the respondents.

(xC) That the order dated 7-7-88 exhausted in itself so the order dated 9-8-88 is persee, illegal and void and the applicant cannot be asked to go back again to his original post without passing a fresh order of transfer.

(xL) That the applicant was transferred in place of Sri R.D. Srivastava, who was appointed on adhoc basis ought to have been relieved and by not

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relieving him, the Opposite Party had flouted the orders issued for the transfer of Scheduled Caste and Scheduled Tribes.

(B) That after ground no. 3, the following grounds be allowed to be added.

(F) Because the Order dated 9-8-88 is illegal and void as the order dated 7-7-88 had already exhausted in itself so the order dated 9-8-88 cannot be passed against the applicant.

(G) Because the order of transfer dated 7-7-88 was acted upon and in pursuance of the same the applicant joined at Hardoi, there remained nothing to be cancelled, so the order dated 9-8-88 is illegal and bad.

(C) That relief No. iii be allowed to be renumbered as relief No. v and relief No. iii and iv be allowed to be added as follows.

(iii) That the Hon'ble Tribunal be pleased to quash the order dated 9-8-88 and declare that the applicant resumed his duty at Hardoi in pursuance of the order dated 7-7-88 and is entitled to full pay and allowances of the post.

(iv) That the Hon'ble Tribunal be pleased to command the respondents to pay regular salary to the applicant with interest.

(D) That by changing the nature of application does not change.

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VERIFICATION.

I, Jhabbu Lal, son of Sri Hiranjan, aged about 44 years working as Clerk in the Office of Asstt. Engineer, Northern Railway, Hardoi, resident of Village Tirwa Majra Patseni, Post Barwa Sarsand, Distt. Hardoi do hereby verify that the contents of paras 1 to 5 are true on legal advice

and that I have not suppressed any material fact.

Dated: May 17, 1989.

Place: Lucknow.

APPLICANT.

श्री ००२ लाल

I, Jhabbu Lal, son of Sri Hiranjan, aged about 44 years working as Clerk in the Office of Asstt. Engineer, Northern Railway, Hardoi, resident of Village Tirwa Majra Patseni, Post Barwa Sarsand, Distt. Hardoi do hereby verify that the contents of paras 1 to 5 are true on legal advice and that I have not suppressed any material fact.

Y. K. Kullhekar
Advocate

श्री ००२ लाल

श्री ००२ लाल

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(124)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
OF SUIT NO. 152 OF 1989

HIS. APPLICATION No. 152

1 989

IN

Original

Application No. 155 of 1988(L)

Jhabbu Lal .

... Applicant.

Versus

Union of India & Others.

... Respondents..

BRIEF FACTS LEADING TO THE APPLICATION.

(1) That the above noted case was fixed before this Tribunal and the applicant was allowed two weeks' time to file the amendment application in the case..

(2) That the applicant contacted his Counsel, who dictated the application for amendment to his Steno but due to the death of the mother of the Steno, the same could not be typed as he went out of station to his home town and returned on 12-5-89 when he typed the application

21 02 01 01

*Sri Sirish Kumar
to pl. keep on
record & put
up before Honble
Court for orders
P. 17,*

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for amendment on 13-5-89 and 14th May, 1989
being Sunday, the application for amendment was
typed out.

(3) That delay in filing the application
for amendment is due to the facts mentioned above
which may kindly be condoned or excused in the
interest of justice..

(4) That delay in filing the application
for amendment is not deliberate but it was
incidental.

P R A Y E R.

Wherefore, it is most respectfully prayed
that delay in filing the application for amendment
be condoned or excused in the interest of
justice..

24 09 2012

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VERIFICATION.

I, Shabbu Lal, son of Sri Kiranjan, aged about 44 years working as Clerk in the Office of Asstt. Engineer, Northern Railway, HarDOI, resident of Village Tirwa Majra Patseni, Post Darva Sarsand, Distt. HarDOI do hereby verify that the contents of paras 1 to 4 are true on legal advice and that I have not suppressed any material fact.

Dated: May 17, 1989.

APPLICANT.

Place: Lucknow.

श्री व्यू लाल

I, hereby
Sri Shabbu Lal
who has signed
before me.

Signature

CY. K. Kulkarni
Advocate

श्री व्यू लाल

श्री व्यू लाल

Annexure No I

AEN-HPU

Northern Railway

Office of the
Divl. Railway Manager,
Moradabad
Dt. 7th July, 1988

Office Order
No. 940-EO-3/Transfor/86/Pt. II

In partial modification of the orders contained in letter of even no. dt. 20/5/88, the following transfer orders are issued with immediate effect:-

1. Shri B.R. Gautam, Sr. Clerk under PWI/CH is ~~not~~ posted under PWI/RG.
2. Shri Jhabbu Lal, Clerk under AEN/HPU is posted vico Shri R.B. Srivastav under AEN/HRI who should be relieved to join as Enq. Cum Reservation Clerk/HRI.
3. ~~Shri~~ Smt. Suman Lata Sharma, Clerk under WA Branch/MB is ~~in~~ posted under AEN/HPU vico Mr Jhabbu Lal.
4. Shri Munna Lal, Clerk under AEN/HPU is posted vico Smt. Suman Lata Sharma in WA Branch.
5. Mr Harinder Kumar, Clerk under PWI/RG is posted under PWI/CH vico Shri B.R. Gautam.

Sgt
Sr. Divl. Personnel Officer,
Moradabad

Copy forwarded to the following for information and necessary action:-

1. AENS/HPU, CH and HRI
2. DSE
3. Sr. DAO/MB
4. Supdt/Paybill
5. Supdt. W.A. Section.

...

*True Copy
Attached*

24 09 11 24



पत्रांक ई/3

कार्यालय सहायक अभियन्ता
उ० रे० हापुड़,
दि० २८-७-८८

नोटिस

(I) मंडल रेल प्रबंधक मुगदाबाद को पत्र कार्यालय आदेश सं.
१५०-EO-३/Tromper/86/Pt II दि० ७th July, 1988 के अनुसार -

① श्री डाबू लाल लिपिक वेतनमान १५०-१५०० आधीन सहायक
अभियन्ता उ० रे० हापुड़ को समान पद और वेतनमान में एवं
वेतन पर सहायक अभियन्ता हर्डेड के अधीन कार्य करने हेतु
आज दि० २८-७-८८ के अपराह्न कार्यमुक्त किया जाता है,
इसका आन्तरिक वेतन प्रमाण पत्र इसके साथ संलग्न है इसकी
सेवा अभिलेख पुस्तिका इस कार्यालय को प्राला नहीं हुई है।
इसका वेतन दि० २-८-८८ तक यहाँ चार्ज किया जा चुका है।
दि० ३-८-८८ से आप अपने यहाँ चार्ज करें।

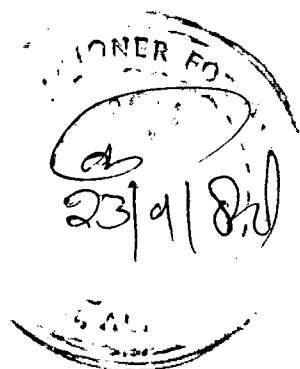
सि

प्रतिलिपि :- सूचनाएँ एवं आवश्यक कार्यवाही हेतु।

- ① सहायक अभियन्ता हर्डेड।
- ② प्रवर मंडल कार्मिक अधिकारी मुगदाबाद को उनके पत्रांक १५०-EO-३/Tromper/86
Pt. II दि० ७th July, 1988 के संदर्भ में।
- ③ अधीक्षक वेतन बिल गाँवा मुगदाबाद।
- ④ श्री डाबू लाल लिपिक।

True copy
A. L. K.

डाबू लाल



429
G.T.R. 1986
NORTH-EAST RAILWAY

Annexure No 3

पत्र क्रि: - ई-15

कार्यालय सहायक अभियंता
हरदोई, दिनांक. 29.7.88

सेवा में: चरि० मं० कारि० अधिकारी
30 रे० मुरादाबाद ।

विषय: - श्री अश्वलात लिपिक का स्थावकतरफ हायुड से हरदोई ।

संदर्भ: - आपका पत्र सं० 940-ई० 30-उ/स्थावकतरफ/86/अ.म.प
दिनांक 07.7.88.

उपरोक्त पत्र के संदर्भ में आपको सूचित किया जाता है कि इस कार्यालय में एक पद रिक्त है जबकि श्री अ.बो.श्रीवास्तव तथा विवेक कुमार शुक्ल पहले से ही कार्य कर रहे हैं । मेरे पास एक लिपिक पहले से अधिक है अतः श्री अश्वलात को जो कि आज दिनांक 29.7.88 को इस कार्यालय में उपस्थित हुये हैं को आपके पास अधिक कार्यवाही हेतु भेजा जा रहा है ।

श्री अश्वलात लिपिक को अवगत जिज्ञासि करके भी सुना करें ।

सहायक अभियंता
हरदोई ।

अश्वलात

True Copy
Attached



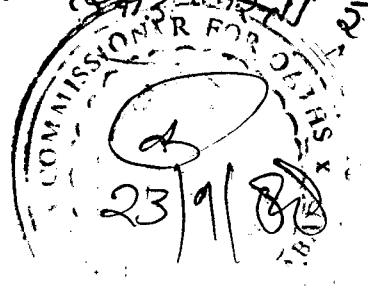
पिप्लो - 86/PT-II 17/11/88

संजय से निवृत्त कर है कि प्राथमिक सहायक आमेय-ता
हापुड से 29/8/88 को स्वेपर हा कर सहायक आमेय-ता
हरदोई को जवाबनींग रिपोर्ट दी।
सहायक आमेय-ता हरदोई ने R.B. श्री वास्तव से चाज
न दिला कर प्राथी को मंडल कार्यालय को भेज दिया।
प्राथी को PO, DSE, SEN-II आदि से मिला। किसी ने AEN-
HRI को नहीं आदेश दिया कि R.B. श्री वास्तव को लाने का
हरदोई इनकार कर के लिया स्वेपर कर और मुझ को उससे
चाज दिला। बालक मुझ हापुड बापस जान के लिए भेजा गया
जो कि वहां जा रहा नहीं है।

प्राथी ने वच्चा को रडमोशन हरदोई 7/7/88 को वापस करा
दिया था कि PO. सादर के जेहन के मुताबिक। प्राथी ने 300 रु.
के कर हरदोई को राय पर ममान के कर व्यवस्था की

AEN-HRI ने आमेय आदेशों को पालन न कर अपन
आदेशों को कर दिया।

आप से यह अनुरोध है कि आप मेरे वच्चा के अधिकार को
देखते हुए उचित आदेश पारन को करा कर। और यदि R.B. श्री
वास्तव को लाने का नहीं स्वेपर करा सेकत है तो नि.म. बालामठ
के आदेश के समीप राधन को लाने के करवा कर तवा दला आंगा है
उनको जगह पर कर के तो कि बालामठ डिपुटी करता रहगा और
वच्चा को करव करव करवा करवा रहगा।



True copy
Attest स वूलाल

मंडल सं.मी. 1/10/79/हार्ड-2

मण्डल रेल प्रबन्धक कार्यालय,

उत्तर रेलवे, गुरादाबाद

दिनांक: 5/12/1986

P.S. No. 4908

समस्त अधिकारीगण, गुरादाबाद मण्डल।

समस्त प्रवर अधीनस्थ गुरादाबाद मण्डल।

समस्त अधीक्षक, सहायक अधीक्षक एवं सम्बन्धित विधिक कार्यालय शाखा।

मुख्य स्टेनो गोपनीय शाखा।

प्रतिलिपि - मण्डल सचिव एवं आर. एस. गुरादाबाद।

" " यु. आर. एस. गुरादाबाद।

विषय:- प्रारम्भिक नियुक्ति/प्रदोन्नति/स्थानान्तरण पर अनु. नाति/अनु. जनजाति व्यक्तियों की उनके पूर्व निवास स्थान पर सेनाती करना।

= = = =

बोर्ड के पत्र दिनांक 24/12/85 के पत्र सं. 8073/240-हार्ड-1/गुरादाबाद/आर.पी. दिनांक 29.1.86 की प्रतिलिपि आपको सूचना मार्गदर्शन एवं आवश्यक कार्यवाही हेतु प्रेषित की जाती है।

बोर्ड के तैयार विधिन पत्र दिनांक 14.1.75 एवं 6.7.78 को गुप्त सं. 7057 द्वारा प्रसारित किया जा चुका है।

संलग्न/पथोक्त।

30 रेल गुरादाबाद।

Copy of Rly. Bd.'s letter No. 85-E(SCT)I-43/1 dated 24.12.85 from the Dy. Director, Estt. (SCT) Rly. Board, New Delhi addressed to the General Manager, All Indian Railway & Others.

Sub:-Posting of SC/ST near their Home town on initial appointment/promotions/transfers.

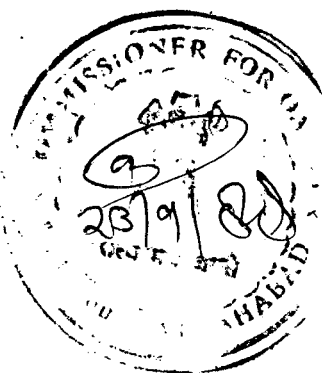
Ref:-Board's letter No. E(SCT)79/15/3 dated 19.11.1970.

(iii) 78-E(SCT)15/25 dated 6.7.78.

Contd.....2/-

Amecolm
Atteeban

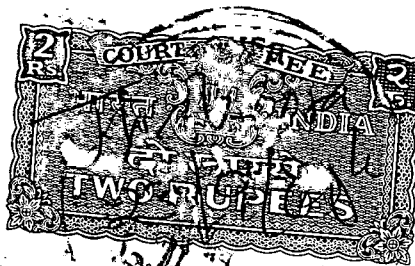
21/02/87



A32

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH
ALLAHABAD AT LUC KNOW

1988
AFFIDAVIT
HIGH COURT
ALLAHABAD



Jhabboo Lal

Applicant

Versus

Union of India and others

Respondents

AFFIDAVIT

I, Jhabboo Lal, aged about 43 years, son of Sri Nirenjan, resident of village ^{Texva} ~~Texva~~ Majra Patsani, post office Barwa Sarsand, district Hardoi do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the applicant in this case and as such he is fully conversant with the facts of the case stated in the accompanying application

2. That annexures nos. 1 to 5 are the true copies of the originals and the deponent has compared them from the originals.

Place: Lucknow

Dated: Sept. 23, 1988



DEPONENT

इ. अ. नं. १०८

Verification

I, the abovesigned deponent do hereby verify

1933

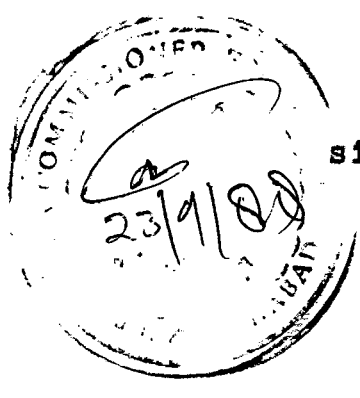
that the contents of paragraphs 1 and
2 of this affidavit are true to my
personal knowledge. No part of it is
false and nothing material has been
concealed. So, help me God.

Signed and verified this ^{23rd} ~~19~~ day of
^{23rd} ~~19~~ Sept., 1988 in the court compound at
Lucknow.

Place: Lucknow

Dated: Sept. ²³ ~~19~~, 1988

श्री अमृत लाल
DEPONENT



I identify the deponent, who has
signed before me.

S.P. Singh
(S.P. Singh)
Advocate.

Tabdul
S.P. Singh Adv
12:00 AM
I have signed
and verified that
the contents of this affidavit
are true to my personal knowledge
and nothing material has been
concealed.

23/9/88
Advocate
Oath Commissioner
Lucknow
Date 23/9/88

श्री अमृत लाल

प्रतिवादी रेंस्पॉडेन्ट

वादी [अपीलाण्ट]

बनाम प्रतिवादी (रम्पाडेन्ट)
 सन् १९८१ पेशी को ता. १६ ई.

Advocate (High Court)

Q. 799, Sector C, Mahanagar

at Son S. P. Chel, Solvaab

... महोदय
एडवोकेट

नाम अक्षर	...	...	...	...	...
अक्षर	...	...	...	...	...
नाम अक्षर	...	...	...	...	...

को अपना बकील नियुक्ति करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूँ इस मुकदमा में बकील महोदय स्वयं अथवा अन्य बकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोंतर करें या कोई कागज दाखिल कर या लौटावे या हमारी ओर से डिमरी जारी करावे और रुपया वसूल कर या सुलहनामा व इक्याल दावा तथा अपील निगरानी हमारे ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकदमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्ताखती) रसीद से लेवे या पच नियुक्त करें— बकील महोदय द्वारा की गई वह सब कार्य वाही हमको सर्वथा स्वीकार है और होगा मैं यह भी एधीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे बकील पर नहीं होगी इसलिए यह वकासतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर श्री ००० लाल

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

Accountant's १६ १९ १९९९

Accompanied by
 [Signature]
 Sogena, [Signature] Nathreshtha
 [Signature] High Court

g. 789, Sec. 1, 1901

6004

435

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLENHABAD BENCH AT LUCKNOW.

OBJECTION/ REPLY
ON BEHALF OF RESPONDENT No.5
IN

REGISTRATION O.A. No. 155 of 1988(L)


Jhabbu Lal Applicant

Versus

Union of India and others Respondents

The objection/reply on behalf of the
respondent No.5 is as follows.

1. That in regard to the allegations made in paragraph 3 of the application it is stated that the order dated 7.7.1988 on which ^{as well as 29.7.88} the other order dated 22.7.1988, was based has since been cancelled vide the Order No.940/EO-3/Transfer 36 Part II dated 9.8.1988 issued by the Divisional Railway Manager, Moradabad, a true copy of which is being filed herewith as Annexure 1 to this objection. With the cancellation of the aforesaid order the application has been rendered infructuous.


सहायक अभियन्ता
उत्तर रेलवे, हरदोई
Asstt. Engineer
N. Rly. Haridwar


2. That in regard to the allegations

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made in paragraph 6(1) of the application it is stated that the applicant joined the post of clerk at Hapur in January, 1988. This posting was against a clear vacancy.

3. That in regard to the allegations made in paragraph 6(ii) of the application it is stated that the order dated 7.7.1988, referred to in the paragraph under reply, has since been cancelled vide the order No.940/EO-3/Transfer-36 Part II dated 9.8.1988 issued by the Divisional Railway Manager, Moradabad. In this connection it may further be stated that in fact no post was available at Hardoi where the applicant could be adjusted. The Schedule caste quota for Hardoi Sub Division stood filled up. One Vivek Kumar Shukla, who is of P.H. (partially handicapped) category was ^{temporarily} adjusted at Hardoi against a work-charge post, which had a duration of eight months. Sri R.B. Srivastava was given an ad hoc appointment on the post of a clerk. Against this vacancy Sri Vivek Kumar Shukla had to be adjusted against P.H. quota. Since the Scheduled caste quota stands already filled up in Hardoi Sub Division, there was no possibility of the applicant's adjustment there. On detection of the mistake the same was rectified and the order dated 7.7.1988 was cancelled.

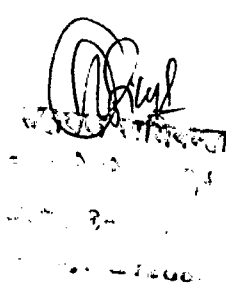

स. इंजीनियर,
म. रेलवे, म. रेलवे
म. इंजीनियर
म. रेलवे

A37

-3-

4. That in regard to the allegations made in paragraph 6(iii) and 6(iv) of the application it is stated that the applicant appears to have been relieved from Hapur on 28.7.1988. When he reported for duty at Hardoi on 29.7.1988 he was asked to report to the Divisional Personnel Officer, Moradabad with a request for his posting somewhere else. This was necessitated, as there was no post available at Hardoi under Assistant Engineer, where he could be adjusted.

5. That in regard to the allegations made in paragraph 6(v) of the application it is stated that as has already been stated in the preceding paragraph the order dated 7.7.1988 has since been cancelled on detection of the mistake and the status quo ante, so far as the applicant is concerned, has been restored. The applicant was made aware of the non-availability of the post on 29.7.1988 when he was asked to report to the Divisional Personnel Officer, Moradabad. In these circumstances there could be no justification for either taking any house on rent or getting the children admitted, as asserted. So far as it could be ascertained the applicant has not taken any house on rent at Hardoi, as asserted in the paragraph under reply. There could be no justification for taking the house on rent.


[Handwritten signature and stamp, possibly a date or initials]

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-4-

On his regular posting at Hardoi the applicant could have been allotted a quarter. No reasonable person could act in a manner as is being asserted by the applicant in the facts and circumstances of the present case, especially in view of the order dated 29.7.1988 whereunder it was made clear to him that it was not possible to adjust him at Hardoi. It is further stated that the application, referred to in the paragraph under reply, was totally misconceived and baseless. The applicant had been posted at Hapur in the month of January, 1988 and in the normal course he had to be there for a period of three years. He had never objected to his transfer to Hapur and since in normal course he had to remain there for a minimum period of three years, he could have no objection to the restoration of the position, as it stood prior to 7.7.1988/28.7.1988. So far as Lakshmi Narain, referred to in the paragraph under reply is concerned, no application from him seeking his transfer has been received as yet. No administrative exigency exists, which could justify the transfer of Lakshmi Narain.


6. That in regard to the allegations made in paragraph 6(vi) of the application it is stated that the order issued by the Railway Board, referred to in the paragraph under reply, is not at all attracted in the facts and circumstances of the present case. As has already been

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-5-

indicated above, the scheduled caste quota, so far as the clerks are concerned, stands filled up in Hardoi Sub Division. The applicant cannot be adjusted at Hardoi, as there is no post available there. In view of the administrative exigencies the applicant could not, in the circumstances of the case, be shifted from Hapur, where he had been posted in the month of January, 1988. On detection of the mistake in issuing the order dated 7.7.1988, the said order was cancelled. The applicant was not entitled to the benefit of the order issued by the Railway Board, referred to in the paragraph under reply. There could be no justification for depriving a scheduled caste candidate already holding the post of clerk at Hardoi and adjusting the applicant there. The posting of Sri Hira Lal, a scheduled caste person in Hardoi Sub Division, in accordance with the circular issued by the Railway Board, which posting is continuing for more than four years, could not be disturbed. The claim of the applicant is totally misconceived and deserves to be rejected.

7. That the allegations made in paragraph 6(vii) of the application are incorrect and are denied. The applicant is not on leave, as suggested. The applicant reported for duty before the Divisional Personnel Officer on 30.7.1988. He, however, did not attend with


उत्तर रेलवे, हार्दोई
Asstt. Engineer
N. Rly. Hardoi

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effect from 1.8.1988 and is absent from duty without any justification. So far as the order issued by the Railway Board is concerned, the correct position has already been indicated above, which need not be repeated again.

8. That in regard to the allegations made in paragraph 6(viii) of the application it is stated that Sri R.B. Srivastava is going to be relieved very shortly to join as ERC/HRI.

9. That in regard to the allegations made in paragraph 6(ix) of the application it is stated that in the circumstances, which have already been indicated in the preceding paragraph, it has become necessary to direct the applicant to report for duty before the Divisional Personnel Officer, Moradabad. He has since been directed to report for duty at Hapur in accordance with the order dated 9.8.1988.

10. That in regard to the allegations made in paragraph 6(x) of the application it is stated that the applicant is continuing to be absent from duty since 1.8.1988, without any authority. He has already been paid his salary till 2.8.1988. This was paid as advance pay. Since he is absent from duty in an unauthorised

manner, he is not entitled to any salary as claimed. No ground at all has been made out for interference by this Hon'ble Tribunal.

11. That in regard to the allegations made in paragraph 7 of the application it is stated that the applicant is not entitled to any relief. He has approached this Hon'ble Tribunal with unclean hands and has disentitled himself from getting any relief.

12. That in regard to the allegations made in paragraph 8 of the application it is stated that in the circumstances of the case he is not entitled to any relief prayed. He is not complying with the order dated 9.8.1988 even though he has full knowledge about the same.

13. That the allegations made in paragraph 9 of the application are incorrect and are denied.

VERIFICATION

I, O.P. Singh, Assistant Engineer,
Northern Railway Hardoi, do hereby
verify that the contents of this
objection/reply in paragraphs



5
12
cc.
cc.

